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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,853	02/27/2004	Sridhar Jawaharlal	21204.0162US	8491

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SULLIVAN & WORCESTER LLP
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Washington, DC 20006

EXAMINER

YOO, JASSON H

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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05/27/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/789,853	Applicant(s) JAWAHARLAL, SRIDHAR	
	Examiner Jasson H. Yoo	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-31 and 33-59 is/are pending in the application.
- 4a) Of the above claim(s) 56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-31, 33-55, 57-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7-11, 25-31, 34-38, 52-53, 55, 57-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cousineau (US 2004/0162142) in view of Pederson (US 2004/0198403).

Claims 1, 28. Cousineau discloses a method for playing a game and a remote access based gaming system (10 in Fig. 1), comprising:

a wireless network (14 in Fig. 1);

a first remote user terminal (12a, 12b, or 12c in Fig. 1 and paragraphs 19-22) configured to transmit toward the application server (components of the game server 18, Fig. 1 and paragraph 27) a first gaming Short Message Service (SMS) text message [Cousineau discloses the user terminal 12 includes a program software to communicate with the server is short message service (paragraph 26). The first message game can be when the player access the game server (paragraph 28) or make a game choice selection (paragraphs 28).], the application server configured to transmit toward the first remote user terminal a second gaming SMS text message [The second game message

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can be when the server transmit data to the user terminal such as prompting to player for authorization or game selection (paragraphs 27, 28, 31) or transmitting the game or game result to the user terminal (paragraphs 27, 32).], wherein the first and second gaming SMS text messages are transmitted via the wireless network (14 in Figs. 1 and 2, paragraph 26).

Cousineau discloses that any type of digital communication environment may be used to transmit the game messages (paragraph 26). Cousineau further discloses that the digital communication environment may include Java, and game may be downloaded in Java (paragraph 26). However, Cousineau fails to disclose that the first remote user terminal includes a translator configured to convert the first gaming message from a Java transaction object format to the first SMS text message prior to the first SMS text message's transmission via the wireless network and convert the second gaming SMS text message to a Java transaction object format after receipt of the second gaming SMS text message at the first remote user terminal. Nevertheless such modification would have been obvious to one of ordinary skilled in art. As discussed above, Cousineau discloses that the communication may incorporate any type of digital communication environment such as Java and that the game may be downloaded in Java (paragraph 26). Thus it would have been obvious to transmitting messages in SMS to download a game in Java. This would require a translator to convert the messages appropriately. Furthermore, in an analogous art to play games using SMS text messages, and play Java based games, Pederson discloses a method of playing a game using a user device (cell phone Fig. 1, paragraph 18). The user

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device transmits and receives SMS game messages (paragraphs 22, 51-58). The user device comprises a translator (interpreter 48 and game engine 44, paragraphs 24-25, 54-58) to convert Java transaction format to SMS text message and convert SMS into java transaction format (i.e. a midp java applications, midlets can encode the SMS and send it, and SMS is processed by the midlet when receiving the SMS paragraph 57). This will allow devices such as cell phones with SMS and Java capability to play a Java based online game via SMS text message by converting and reconverting the different format. Therefore it would have been obvious to one of ordinary skilled in the art to modify Cousineau system and incorporate a translator within the user device in order to play java base online games using SMS text messages.

Claims 2, 29, 55. Cousineau in view of Pederson discloses the claimed invention as discussed above (see rejection for claim 1 above). Cousineau further discloses a data center (server 18 in Figs. 1 and 2) that includes an application server [The application server is interpreted as components of the server 18, such as the CPU, 36, game software 40, memory 42 (Fig. 2). Furthermore, Cousineau discloses that the server includes one or more servers (paragraph 27). Thus the server 18 includes one or more application server.] The combination of Cousineau in view of Pederson also disclose a lottery game (Cousineau, paragraphs 1, 19-20), the lottery game including a graphical image displayed on the first remote user terminal [Cousineau discloses that the game are java based games (paragraph 26) are displayed (paragraph 22) and

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Pederson discloses that the java based games contain graphical image (illustrated in 72 in Figs. 4 and 5).].

Claims 3, 30. Cousineau in view of Pederson discloses the first user terminal is a mobile telephone (Cousineau, paragraphs 19 and 22; Pederson, Fig. 1).

Claims 4, 31. As discussed in claim 1, Cousineau in view of Pederson discloses a request for a particular one of a plurality of lottery games of differing format [Cousineau discloses lottery type games, virtual scratch-off games (paragraph 20) that are requested, or selected from a menu of game available (paragraphs 27 and 31).].

Claims 7, 34. See rejection for claim 1 above. Multiple (second remote users) can be used with the system (Cousineau, 12a, 12b, or 12c in Fig. 1 and paragraphs 19-22)

Claims 8-10, 35-37. Cousineau discloses a player's account stored in a database (paragraph 33). Cousineau also discloses multiple games can be played (paragraph 31), and the fees and winnings for the games are debited and credits accordingly to the player's account (paragraph 27). Thus portions or a percentage of each user's account is debited (distributed) and credited (contributed) based on the fees and winnings. The game transactions are processed and reported (paragraph 27).

Claims 11, 38. Cousineau discloses that funds are transferred into and out of a financial entity (paragraph 31).

Claim 25. Cousineau discloses the application server includes a plurality of application servers (The game server includes a combination of one or more servers, paragraph 27).

Claims 26-27, 52-53. Cousineau discloses instant win lottery game simulated as a scratch-off lottery game (scratch-off lottery game, paragraph 20).

Claims 57- 59. The combination of Cousineau in view of Pederson discloses that the lottery game is an animated graphical game [Cousineau discloses that the game are java based games (paragraph 26) are displayed (paragraph 22) and Pederson discloses that the java based games contain non-textual image (illustrated in 72 in Figs. 4 and 5).].

Claims 6 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cousineau (US 2004/0162142) in view of Pederson (US 2004/0198403) applied to claims 2 and 29 above, and as supported by Applicant's Specification.

Claims 6, 33. Cousineau in view of Pederson discloses the claimed invention as discussed above. However, Cousineau in view of Pederson fails to disclose that the

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conversion of SMS and Java transaction object includes a first translation object format and binary message format, a second translation between the binary message format and an ASCII text message format, and a third translation between the ASCII text message format and the SMS text message format. As discussed above, Cousineau discloses that different game format can be used (paragraph 26) and Pederson discloses that Java and SMS formats are commonly used in electronic games (paragraphs 51-54). Binary and ASCII text formats are also well known formats in the art that can be used. Thus the different type of formats used and translators for the different formats is a design choice since each different format can equally be used to play the game. Thus the different formats and the translators for the different formats appear to be art equivalent to each other. This is also supported by Applicant's specification. Applicant discloses that various communication protocols and different translators can be used (paragraph 17). Applicant discloses that different number of translators may be used (paragraphs 13 and 16). Furthermore, applicant explicitly discloses that those skilled in the art can appreciate that other translators, that employ other messaging protocols for converting game data between a Java transaction object and an SMS text message may be employed (paragraph 17). Thus it would have been obvious to one of ordinary skilled in the art to modify Cousineau in view of Pederson's system, and incorporate the conversion of SMS to ASCII to Binary and to Java in order to provide translate the SMS messages into compatible format of the lottery system, and since other messaging protocols for converting game data is art equivalent.

Claims 12-24, 39-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cousineau (US 2004/0162142) in view of Pederson (US 2004/0198403) as applied to claims 2, 8, 29, 35 above, and further in view of Sludikoff (US 5,116,049)

Claims 12-13, 15-19, 39-41. Cousineau in view of Pederson discloses the claimed invention as discussed above. Cousineau in view of Pederson generally discloses that the system is used to play a lottery game. However, Cousineau in view of Pederson fails to disclose the specifics of how the lottery game is played, such as including a series of drawn number, comparing the numbers for a result, and providing a draw date for a future drawing. Nevertheless it is notoriously well known in the art that conventional lottery games are play by selecting numbers, and drawing numbers at a future date for a result. An example of such lottery game is taught by Sludikoff. Sludikoff discloses that a lottery is played by selecting numbers for each game, wherein the winning numbers are drawn at future date (Figs. 1-3, col. 2:58-67). The prize is based on the matching results (cols. 2:64-3:1). It would have been obvious to one of ordinary skilled in the art to modify Cousineau in view of Pederson's system and incorporate the selection of numbers, specifying the date, and compare drawn number with the selected numbers for a win, in order to play a conventional draw lottery game. When playing such conventional lottery game on a portable device such as a cell phone, the user would specify the selected numbers and the date of the game the numbers are for. Cousineau also discloses that the user is notified of the game results (paragraphs 27, 32-33).

Claims 20-21, 43-48. See rejection for claim 12 above. Cousineau discloses that a win-loss notice (win type, if the player wins or loses) is provided and win amount is provided (provide game results paragraphs 27 and 33). Sludikoff also discloses different type of winnings based on the comparison (cols. 2:64-3:1).

Claims 14, 42. Cousineau discloses an entry confirmation (paragraph 30). Furthermore, Sludikoff tickets (Figs. 1-3) is considered as an entry confirmation.

Claims 22-24, 49-51. Cousineau in view of Pederson generally discloses the system is used to play lottery game but fails to disclose the specifics of the lottery game, such as that the first and second user request the first lottery game. However, as discussed above, it would have been obvious to play a conventional lottery game of selecting numbers and drawing numbers as taught by Sludikoff. Sludikoff also discloses that in the lottery game, players' wagers are placed in a common pool and divided among them according to their own selections, col. 2:30-34). Thus multiple users can request the same game. The winnings are divided accordingly based on common pool (col. 2:30-34). Furthermore, it is can also be interpreted that Cousineau discloses portions or a percentage of each user's account is debited (distributed) and credited (contributed) based on the fees and winnings (paragraph 27).

Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cousineau (US 2004/0162142) in view of Pederson (US 2004/0198403) as supported by Applicant's Specification and further in view of Sludikoff (US 5,116,049)

Claim 54, Cousineau in view of Pederson as supported by Applicant's Specification discloses the claimed invention as discussed above (see rejection for claims 1-11, 25-27), but fails to teach that the lottery ticket is for a future drawing, and the win-loss notice is in the form of a notice of a result of the drawing. However such modification would have been obvious to one of ordinary skilled in the art in view of Sludikoff (see rejection for claim 12).

Response to Arguments

Applicant's arguments filed 2/18/10 have been fully considered but they are not persuasive. New grounds of rejection using the same art have been made to address the amended limitations.

Regarding claims 1-5, 7-11, 25-32, 34-38, 52-53, 55, 57-59, rejected over Cousineau in view of Pederson, Applicant individually argues that Cousineau fails to teach a translator to convert gaming messages from a Java transaction object format to an SMS text message format, and that Pederson fails to fails to teach a translator for communication with a data center including an application server. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on

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combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Pederson reference was not relied on to teach a gaming system with a data center including an application server. The rejection is made based on Cousineau in view of Pederson. Cousineau discloses a gaming system (10 in Fig. 1), including an application server (components of the game server 18, Fig. 1 and paragraph 27). The rejection acknowledges that Cousineau fails to teach a translator to convert gaming messages from a Java transaction object format to an SMS text message format. However, Pederson discloses a translator to convert gaming messages from a Java transaction object format to an SMS text message format. More specifically, Pederson discloses a translator (interpreter 48 and game engine 44, paragraphs 24-25, 54-58) to convert Java transaction format to SMS text message and convert SMS into java transaction format (i.e. a midp java applications, midlets can encode the SMS and send it, and SMS is processed by the midlet when receiving the SMS paragraph 57). It would have been obvious to incorporate this translator into Cousineau system in order to play java base online games using SMS text messages.

Applicant further argues that Cousineau in view of Pederson fails to teach the specific translation from Java to a binary message format, then to an ASCII text message. It is noted that this limitation is only present in claims 6, 33 and 54. The rejection was made based on a design choice. Although Applicant disagrees that this limitation is a design choice, Applicant does not provide specific arguments why such

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limitation is not a design choice. In other words, there is no description on why the specific type of format is necessary, and why using different formats would result in the invention as inoperable. As support, it was indicated that Cousineau discloses that different game format can be used (paragraph 26) and Pederson discloses that Java and SMS formats are commonly used in electronic games (paragraphs 51-54). Binary and ASCII text formats are also well known formats in the art that can be used. Thus the different type of formats used and translators for the different formats is a design choice since each different format can equally be used to play the game. Thus the different formats and the translators for the different formats appear to be art equivalent to each other. This is also supported by Applicant's specification. Applicant discloses that various communication protocols and different translators can be used (paragraph 17). Applicant discloses that different number of translators may be used (paragraphs 13 and 16). Furthermore, applicant explicitly discloses that those skilled in the art can appreciate that other translators, that employ other messaging protocols for converting game data between a Java transaction object and an SMS text message may be employed (paragraph 17). Thus it would have been obvious to one of ordinary skilled in the art to modify Cousineau in view of Pederson's system, and incorporate the conversion of SMS to ASCII to Binary and to Java in order to provide translate the SMS messages into compatible format of the lottery system, and since other messaging protocols for converting game data is art equivalent.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JHY

/Peter D. Vo/
Supervisory Patent Examiner, Art Unit 3714